

**WILLIAM C. SCHROEDER, WSBA 41986
KSB LITIGATION, P.S.**

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Plaintiff

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

WILLIAM C. SCHROEDER, an individual,

No.

Plaintiff,

**COMPLAINT FOR
DECLARATORY RELIEF
RE: 2 U.S.C. § 2a(a); U.S. CONST.
Art. I, § 2; and Art. II, § 1**

UNITED STATES OF
AMERICA,

[Three Judge Panel Requested pursuant to 28 U.S.C. § 2284(a)]

Defendant.

COMES NOW the above-named Plaintiff, who seeks a declaratory judgment that 2 U.S.C. § 2a(a), which permanently limits the House of Representatives to its size as of 1912 [435 members], deprives citizens of their constitutional rights to equal representation in the House of Representatives [U.S.CONST., Art. I, § 2], and to equal representation in the electoral college for the presidency [U.S.CONST., Art. II, § 1], and is not consistent with the Supreme Court's 'one person, one vote' jurisprudence.

PARTIES

1. Plaintiff William C. Schroeder is a natural born citizen who resides within the Eastern District of Washington and has registered to vote in Washington state.

2. Defendant is the United States of America. F.R.Civ.P. 4(i).

JURISDICTION AND VENUE

3. “The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331.

4. “The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person ... To ... secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote.” 28 U.S.C. § 1333(a)(4).

5. “The district courts shall have original jurisdiction ... of ... Any other civil action or claim against the United States, not exceeding \$10,000 in amount, founded either upon the Constitution, or an Act of Congress[.]” 28 U.S.C. § 1336(a)(2).

6. Venue is proper in the Eastern District of Washington. See 28 U.S.C. § 1391(e)(1)(C).

7. “A district court of three judges shall be convened ... when an action is filed challenging the constitutionality of the apportionment of congressional districts[.]” 28 U.S.C. § 2284(a).

1
2 FACTUAL HISTORY
3

4 1787
5

6 8. Composition of the House of Representatives:
7

8 The House of Representatives shall be composed of Members
9 chosen every second Year by the People of the several States[.]
10 ... Representatives ... shall be apportioned among the several
11 States which may be included within this Union, according to
12 their respective ...whole Number of [] Persons[.] ... The actual
13 Enumeration shall be made within three Years after the first
14 Meeting of the Congress of the United States, and within
15 every subsequent Term of ten Years, in such Manner as they
16 shall by Law direct. The Number of Representatives shall not
17 exceed one for every thirty Thousand, but each State shall
18 have at Least one Representative[.]

19 U.S.CONST., Art. I, § 2.

20 9. “Each State shall appoint, in such Manner as the Legislature
21 thereof may direct, a Number of Electors, equal to the whole Number
22 of Senators and Representatives to which the State may be entitled in
23 the Congress[.]” U.S.CONST., Art. II, § 1.

24 10. “The judicial Power of the United States, shall be vested in
25 one supreme Court, and in such inferior Courts as the Congress may
26 from time to time ordain and establish.” U.S.CONST., Art. III, § 1.

27 11. “The Citizens of each State shall be entitled to all Privileges
28 and Immunities of Citizens in the several States.” U.S.CONST., Art. IV,
§ 2.

29 12. “New States may be admitted by the Congress into this
30 Union; but no new State shall be formed or erected within the
31

1 Jurisdiction of any other State ... without the Consent of the
2 Legislature[] of the State[] concerned as well as of the Congress.”
3 U.S.CONST., Art. IV, § 3.

4
5 **1789**

6 13. On September 25, 1789, the First Congress proposed twelve
7 (12) “Articles” [of amendment] to the Constitution.

8 14. Articles 3 through 12 were ratified by three-fourths of the
9 state legislatures as of December 15, 1791, as the First through Tenth
10 Amendments. Article 2 was ratified in 1992, as the Twenty-Seventh
11 Amendment.

12 13. Article “the first”, never ratified, provides:

14
15 After the first enumeration required by the first article of the
16 Constitution, there shall be one Representative for every
17 thirty thousand, until the number shall amount to one
18 hundred, after which the proportion shall be so regulated by
19 Congress, that there shall be not less than one hundred
20 Representatives, nor less than one Representative for every
21 forty thousand persons, until the number of Representatives
22 shall amount to two hundred; after which the proportion shall
23 be so regulated by Congress, that there shall not be less than
24 two hundred Representatives, nor more than one
25 Representative for every fifty thousand persons.

26 16. The Constitution imposes no size restrictions upon the House
27 of Representatives, save that stated in Art. I, § 2.

28 17. The Judiciary Act of 1789 established a six-member Supreme
Court, comprised of one chief justice and five associate justices.

1 1790

2
3 18. The first census counted 3,929,214 resident persons of the
4 thirteen (13) United States, as of August 2, 1790.

5 1791

6 19. “No person shall ... be deprived of life, liberty, or property,
7 without due process of law[.]” U.S.CONST., Fifth Amend.

8 1792

9
10 20. “[T]he House of Representatives shall be composed of
11 members elected agreeably to a ratio of one member for every thirty-
12 three thousand persons in each state[.]” Apportionment Act of April 14,
13 1792, 2nd Cong., Sess. I, Ch. 23. [Attachment 1]

14 1800

15
16 21. The second census counted 5,308,483 resident persons in the
17 sixteen (16) United States, as of August 4, 1800.

18 1802

19
20 22. “[T]he House of Representatives shall be composed of [141]
21 members elected agreeably to a ratio of one member for every thirty-
22 three thousand persons in each state[.]” Apportionment Act of January
23 14, 1802, 7th Cong., Sess. I, Ch. 1. [Att. 2]

24 1804

25
26 23. The Twelfth Amendment modified Art. II, § 1, Cl. 3, by
27 specifying that each Elector must cast distinct votes for president and
28 vice president, instead of two votes for president.

1 1807

2 24. The Seventh Circuit Act of 1807 increased the size of the
3 Supreme Court to seven (7) members.

4 1810

5 25. The third census counted 7,239,861 resident persons in the
6 seventeen (17) United States, as of August 6, 1810.

7 1811

8 26. “[T]he House of Representatives shall be composed of [181]
9 members elected agreeably to a ratio of one representative for every
10 thirty-five thousand persons in each state[.]” Apportionment Act of
11 December 21, 1811, 12th Cong., Sess. I, Ch. 9. [Att. 3]

12 1820

13 27. Maine became a state on March 15, 1820, with the consent of
14 the legislature of the state of Massachusetts.

15 28. “[I]n the election of representatives in the seventeenth
16 Congress, the state of Massachusetts shall be entitled to choose
17 thirteen representatives only; and the state of Maine shall be entitled
18 to choose seven representatives, according to the consent of the
19 legislature of said state of Massachusetts[.]” 16th Cong., Sess. I, Ch. 39
20 (April 7, 1820).

21 29. The fourth census counted 9,638,453 resident persons in the
22 twenty-three (23) United States, as of August 7, 1820.

1 1822 – 1823

2
3 30. “[T]he House of Representatives shall be composed of [215]
4 members elected agreeably to a ratio of one representative for every
5 forty-seven thousand persons in each state[.]” Apportionment Act of
6 March 7, 1822, 17th Cong., Sess. I, Ch. 10 (March 7, 1822). [Att. 4]

7 1824 – 1825

8
9 31. Pursuant to the Twelfth Amendment, the House elected
10 John Quincy-Adams to the presidency.

11 1830

12 32. The fifth census counted 12,860,702 resident persons in the
13 twenty-four (24) United States, as of June 1, 1830.

14 1832

15 33. “[T]he House of Representatives shall be composed of [240]
16 members, elected agreeably to a ratio of one representative for every
17 forty-seven thousand and seven hundred persons in each state[.]”
18 Apportionment Act of May 22, 1832, 22nd Cong., Sess. I, Ch. 91. [Att.
19 5]

20 1840

21 34. The sixth census counted 17,063,353 resident persons in the
22 twenty-six (26) United States, as of June 1, 1840.

23 1842

24 35. “[T]he House of Representatives shall be composed of [223]
25 members elected agreeably to a ratio of one Representative for every

1 seventy thousand six hundred and eighty persons in each State, and of
2 one additional representative for each State having a fraction greater
3 than one moiety of the said ratio[.]” Apportionment Act of June 25,
4 1842, 27th Cong., Sess. II, Ch. 47. [Att. 6]

5 **1850**

6 36. The aggregate population of the United States “shall be
7 divided by the number two hundred and thirty-three [233], and the
8 product of such division ... shall be the ratio, or rule of apportionment,
9 of representatives among the several States[.]” Census Act of 1850, 31st
10 Cong., Sess. I, Ch. 11, Sec. 25 (May 23, 1850). [Att. 7]

11 37. The seventh census counted 23,191,876 resident persons in
12 the thirty (30) United States, as of June 1, 1850.

13 **1852**

14 38. “[T]he whole number of representatives is hereby increased
15 to two hundred thirty-four [234][.]” Apportionment Act of July 30, 1852,
16 32nd Cong., Sess. I, Ch. 74. [Att. 8]

17 **1860**

18 39. The eighth census counted 31,443,321 resident persons in
19 the thirty-three (33) United States, as of June 1, 1860.

20 **1862**

21 40. “[T]he number of members of the House of Representatives
22 of the Congress of the United States shall be two hundred and forty-
23 one [241], and the eight additional members shall be assigned one each

1 to Pennsylvania, Ohio, Kentucky, Illinois, Iowa, Minnesota, Vermont,
2 and Rhode Island.” Apportionment Act of March 4, 1862, 37th Cong.,
3 Sess. II, Ch. 36. [Att. 9]

4
5 **1863**

6 41. The Supreme Court increased in size to ten (10) members.

7 **1868**

8 42. “Representatives shall be apportioned among the several
9 States according to their respective numbers, counting the whole
10 number of persons in each State[.]” U.S.CONST. Fourteenth Amend. § 2.

11 43. “All persons born or naturalized in the United States, and
12 subject to the jurisdiction thereof, are citizens of the United States and
13 of the State wherein they reside.” U.S.CONST. Fourteenth Amend. § 1.

14 44. Each citizen has a “right to vote at any election for the choice
15 of electors for President and Vice-President of the United States,
16 Representatives in Congress, the Executive and Judicial officers of a
17 State, or the members of the Legislature thereof[.]” U.S.CONST.
18 Fourteenth Amend. § 2.

19
20 **1869**

21 45. The Judiciary Act of 1869 matched the size of the Supreme
22 Court to the nine (9) then-existing U.S. Circuit Courts, comprised of one
23 (1) chief justice and eight (8) associate justices. [41st Cong., Sess. 1, Ch.
24 22; 16 Stat. 44]

1 1870

2
3 46. “The right of citizens of the United States to vote shall not be
4 denied or abridged by the United States or by any State on account of
5 race, color, or previous condition of servitude.” U.S.CONST., Fifteenth
6 Amend., § 1 (February 3, 1870).

7 47. The ninth census counted 38,558,371 resident persons in the
8 thirty-seven (37) United States, as of June 1, 1870.

9
10 1872

11 48. “[T]he House of Representatives shall be composed of two
12 hundred and eighty-three [283] members, to be apportioned among the
13 several States in accordance with the provisions of this act[.]”
14 Apportionment Act of February 2, 1872, 42nd Cong., Sess. II, Ch. 11,
15 Sec. 1. [Att. 10]

16 49. “[T]he following States shall be entitled to one [1]
17 representative each in the Congress of the United States in addition to
18 the number apportioned to such States by the act [of February 2, 1872],
19 to wit: New Hampshire, Vermont, New York, Pennsylvania, Indiana,
20 Tennessee, Louisiana, Alabama, and Florida[.]” Apportionment Act of
21 May 30, 1872, 42nd Cong., Sess. II, Ch. 239. [Att. 11]

22
23 1876 – 1877

24 50. Samuel Tilden won the popular vote by 252,666 votes and
25 secured 184 electoral votes to Rutherford B. Hayes’ 165, but 20 electoral
26 votes from Florida, Louisiana, South Carolina, and Oregon were
27
28

1 disputed. The resulting Compromise of 1877 saw the political parties
2 agree to award the disputed 20 electoral votes to Hayes, in exchange
3 for the end of Reconstruction.
4

5 **1880**

6 **51.** The tenth census counted 50,189,209 resident persons in the
7 thirty-eight (38) United States, as of June 1, 1880.
8

9 **1882**

10 **52.** “[T]he House of Representatives shall be composed of three
11 hundred and twenty-five [325] members, to be apportioned among the
12 several States as follows: [list].” Apportionment Act of February 25,
13 1882, 47th Cong., Sess. I, Ch. 20. [**Att. 12**]

14 **53.** “[W]henever a new State is admitted to the Union the
15 Representative or Representatives assigned to it shall be in addition to
16 the number three hundred and twenty-five [325].” [Id.]
17

18 **1888**

19 **54.** Benjamin Harrison defeated Grover Cleveland, 233 electoral
20 votes to 168, but lost the popular vote by 90,596.
21

22 **1890**

23 **55.** The eleventh census counted 62,979,766 resident persons in
24 the forty-two (42) United States, as of June 1, 1890.
25

26 **1891**

27 **56.** “[T]he House of Representatives shall be composed of three
28 hundred and fifty-six [356] members, to be apportioned among the

1 several States as follows: [list] [.]” Apportionment Act of February 7,
2 1891, 51st Cong., Sess. II, Ch. 116. [Att. 13]

3
4 57. “[W]henever a new State is admitted to the Union the Representative or Representatives assigned to it shall be in addition to the number three hundred and fifty-six [356].” [Id.]

5
6 7 8 9 10 58. The Judiciary Act of 1891 reorganized the federal courts system, changing the then-existing nine circuit courts into numbered Courts of Appeals. The Supreme Court remained at nine (9) members.

11 **1893**

12 59. Congress created the Court of Appeals for the District of Columbia but did not increase the size of the Supreme Court.

13 14 **1900**

15 16 17 60. The twelfth census counted 76,212,168 resident persons in the forty-five (45) United States, as of June 1, 1900.

18 **1901**

19 61. “[T]he House of Representatives shall be composed of three hundred and eighty-six [386] members, to be apportioned among the several States as follows: [list] [.]” Apportionment Act of January 16, 20 21 22 23 1901, 56th Cong., Sess. II, Ch. 93. [Att. 14]

24 62. “[W]henever a new State is admitted to the Union the Representative or Representatives assigned to it shall be in addition to the number three hundred and eighty-six [386].” [Id.]

1910

63. The thirteenth census counted 92,228,496 resident persons
 3 in the forty-six (46) United States, as of April 15, 1910.

1910				
STATE	Population	Number of Seats	Change in Seats	Average Population Per District
New York	9,113,614	43	6	211,836
Pennsylvania	7,665,111	36	4	212,920
Illinois	5,638,591	27	2	208,837
Ohio	4,767,121	22	1	216,687
Texas	3,896,542	18	2	216,475
Massachusetts	3,366,416	16	2	210,401
Missouri	3,293,335	16	0	205,833
Michigan	2,810,173	13	1	216,167
Indiana	2,700,876	13	0	207,760
Georgia	2,609,121	12	1	217,427
New Jersey	2,537,167	12	2	211,431
California	2,377,549	11	3	216,051
Wisconsin	2,333,860	11	0	212,078
Kentucky	2,289,905	11	0	208,173
Iowa	2,224,771	11	0	202,252
North Carolina	2,206,287	10	0	220,629
Tennessee	2,184,789	10	0	218,479

1	Alabama	2,138,093	10	1	213,809
2	Minnesota	2,075,708	10	1	207,438
3	Virginia	2,061,612	10	0	206,161
4	Mississippi	1,797,114	8	0	224,639
5	Kansas	1,690,949	8	0	211,369
6	Oklahoma	1,657,155	8	8	207,144
7	Louisiana	1,656,388	8	1	207,049
8	Arkansas	1,574,449	7	0	224,921
9	South Carolina	1,515,400	7	0	216,486
10	Maryland	1,295,346	6	0	215,891
11	West Virginia	1,221,119	6	1	203,520
12	Nebraska	1,192,214	6	0	198,702
13	Washington	<u>1,141,990</u>	<u>5</u>	<u>2</u>	<u>228,027</u> <u>[Largest]</u>
14	Connecticut	1,114,756	5	0	222,951
15	Colorado	799,024	4	1	199,643
16	Florida	752,619	4	1	188,155
17	Maine	742,371	4	0	185,593
18	Oregon	672,765	3	1	224,255
19	South Dakota	583,888	3	1	191,892
20	North Dakota	577,056	3	1	191,468
21	Rhode Island	542,610	3	1	180,870
22	New Hampshire	430,572	2	0	215,286
23	Montana	376,053	2	1	183,169

1	Utah	373,351	2	1	185,932
2	Vermont	355,956	2	0	177,978
3	Idaho	325,594	2	1	161,720
4	Delaware	202,322	1	0	202,322
5	Wyoming	145,965	1	0	145,965
6	Nevada	<u>81,875</u>	<u>1</u>	<u>0</u>	<u>80,293</u> [Smallest]
7	Alaska		X	X	X
8	Arizona		X	X	X
9	Hawaii		X	X	X
10	New Mexico		X	X	X
11	*****	*****	***	**	*****
12	United States	92,228,496	433	47	210,328

15 **1911**

16 64. “[T]he House of Representatives shall be composed of four
 17 hundred and thirty-three [433] Members, to be apportioned among the
 18 several States as follows: [list] [.]” Apportionment Act of August 8, 1911,
 19 62nd Cong., Sess. I, Ch. 5. [Att. 15]

20 65. “[I]f the Territories of Arizona and New Mexico shall become
 21 States in the Union before the apportionment of Representatives under
 22 the next decennial census they shall have one Representative each, and
 23 if one of such Territories shall so become a State, such State shall have
 24 one Representative, which Representative or Representatives shall be

1 in addition to the number four hundred and thirty-three, as provided
 2 in section one of this Act[.]” [Id.]
 3

4 **1913**

5 **66.** “The Senate of the United States shall be composed of two
 6 Senators from each State, elected by the people thereof, for six years;
 7 and each Senator shall have one vote. The electors in each State shall
 8 have the qualifications requisite for electors of the most numerous
 9 branch of the State legislatures.” U.S.CONST., Seventeenth Amend.
 10

11 **1920**

12 **67.** The fourteenth census counted 106,021,537 resident persons
 13 in the forty-eight (48) United States, as of January 1, 1920.

1920				
STATE	Population	Number of Seats	Change in Seats	Average Population Per District
New York	10,385,227	43	0	241,409
Pennsylvania	8,720,017	36	0	242,223
Illinois	6,485,280	27	0	240,196
Ohio	5,759,394	22	0	261,791
Texas	4,663,228	18	0	259,068
Massachusetts	3,852,356	16	0	240,772
Michigan	3,668,412	13	0	282,186
California	3,426,861	11	0	311,457
Missouri	3,404,055	16	0	212,753

1	New Jersey	3,155,900	12	0	262,992
2	Indiana	2,930,390	13	0	225,415
3	Georgia	2,895,832	12	0	241,319
4	Wisconsin	2,632,067	11	0	239,210
5	North Carolina	2,559,123	10	0	255,912
6	Kentucky	2,416,630	11	0	219,694
7	Iowa	2,404,021	11	0	218,547
8	Minnesota	2,387,125	10	0	238,566
9	Alabama	2,348,174	10	0	234,817
10	Tennessee	2,337,885	10	0	233,789
11	Virginia	2,309,187	10	0	230,919
12	Oklahoma	2,028,283	8	0	253,535
13	Louisiana	1,798,509	8	0	224,814
14	Mississippi	1,790,618	8	0	223,827
15	Kansas	1,769,257	8	0	221,157
16	Arkansas	1,752,204	7	0	250,315
17	South Carolina	1,683,724	7	0	240,532
18	West Virginia	1,463,701	6	0	243,950
19	Maryland	1,449,661	6	0	241,610
20	Connecticut	1,380,631	5	0	276,126
21	Washington	1,356,621	5	0	270,919
22	Nebraska	1,296,372	6	0	216,062
23	Florida	968,470	4	0	242,118

1	Colorado	939,629	4	0	234,790
2	Oregon	783,389	3	0	261,130
3	Maine	768,014	4	0	192,004
4	North Dakota	646,872	3	0	214,651
5	South Dakota	636,547	3	0	210,413
6	Rhode Island	604,397	3	0	201,466
7	Montana	548,889	2	0	270,756
8	Utah	449,396	2	0	224,194
9	New Hampshire	443,083	2	0	221,542
10	Idaho	431,866	2	0	215,221
11	New Mexico	<u>360,350</u>	<u>1</u>	<u>1</u>	<u>353,428</u> <u>[Largest]</u>
12	Vermont	352,428	2	0	176,214
13	Arizona	334,162	1	1	309,495
14	Delaware	223,003	1	0	223,003
15	Wyoming	194,402	1	0	193,487
16	Nevada	<u>77,407</u>	<u>1</u>	<u>0</u>	<u>75,820</u> <u>[Smallest]</u>
17	Alaska		X	X	X
18	Hawaii		X	X	X
19	*****	*****	***	**	*****
20	United States	106,021,537	435	0	241,864

25 68. “In 1920, the Census Bureau did transmit apportionment
 26 counts to Congress, but Congress did not reapportion.” See n.2 at:
 27 <https://www.census.gov/data/tables/time-series/dec/apportionment-data-text.html>

1 **69.** “The right of citizens of the United States to vote shall not be
2 denied or abridged by the United States or by any State on account of
3 sex.” U.S.CONST., Nineteenth Amend. (August 18, 1920).

4
5 **1929**

6 **70.** “[T]he tabulation of total population by States as required for
7 the apportionment of Representatives shall be completed within eight
8 months from the beginning of the enumeration and reported by the
9 Director of the Census to the Secretary of Commerce and by him to the
10 President of the United States.” Fifteenth Census and Apportionment
11 Act of June 18, 1929, 71st Cong., Sess. I, Ch. 28, Sec. 2. [Att. 16]

12 **71.** “[T]he President shall transmit to the Congress a statement
13 showing the whole number of persons in each State ... as ascertained
14 under the fifteenth and each subsequent decennial census of the
15 population, and the number of Representatives to which each State
16 would be entitled under an apportionment of the then existing number
17 of Representatives [= 435].” [Id., Sec. 22(a)]

18 **72.** Congress in 1929 created the Court of Appeals for the Tenth
19 Circuit by subdividing the then-existing Court of Appeals for the Eighth
20 Circuit, but did not increase the size of the Supreme Court.

21
22 **1930**

23 **73.** The fifteenth census counted 123,202,624 resident persons in
24 the United States, as of April 1, 1930.

1930				
2	3	4	5	6
STATE	Population	Number of Seats	Change in Seats	Average Population Per District
New York	12,588,066	45	2	279,733
Pennsylvania	9,631,350	34	-2	283,274
Illinois	7,630,654	27	0	282,607
Ohio	6,646,697	24	2	276,943
Texas	5,824,715	21	3	277,362
California	5,677,251	20	9	283,412
Michigan	4,842,325	17	4	284,827
Massachusetts	4,249,614	15	-1	283,307
New Jersey	4,041,334	14	2	288,666
Missouri	3,629,367	13	-3	279,162
Indiana	3,238,503	12	-1	269,873
North Carolina	3,170,276	11	1	287,934
Wisconsin	2,939,006	10	-1	293,172
Georgia	2,908,506	10	-2	290,845
Alabama	2,646,248	9	-1	294,027
Tennessee	2,616,556	9	-1	290,722
Kentucky	2,614,589	9	-2	290,508
Minnesota	2,563,953	9	-1	283,509
Iowa	2,470,939	9	-2	274,491
Virginia	2,421,851	9	-1	269,092
Oklahoma	2,396,040	9	1	264,691
Louisiana	2,101,593	8	0	262,699
Mississippi	2,009,821	7	-1	286,879

1	Kansas	1,880,999	7	-1	268,500
2	Arkansas	1,854,482	7	0	264,921
3	South Carolina	1,738,765	6	-1	289,793
4	West Virginia	1,729,205	6	0	288,200
5	Maryland	1,631,526	6	0	271,920
6	Connecticut	1,606,903	6	1	267,816
7	Washington	1,563,396	6	1	258,737
8	Florida	1,468,211	5	1	293,638
9	Nebraska	1,377,963	5	-1	275,025
10	Colorado	1,035,791	4	0	258,712
11	Oregon	953,786	3	0	316,793
12	Maine	797,423	3	-1	265,806
13	South Dakota	692,849	2	-1	336,503
14	Rhode Island	687,497	2	-1	343,749
15	North Dakota	680,845	2	-1	336,670
16	Montana	537,606	2	0	262,365
17	Utah	507,847	2	0	252,871
18	New Hampshire	465,293	2	0	232,646
19	Idaho	445,032	2	0	220,768
20	Arizona	435,573	1	1	389,375
21	<u>New Mexico</u>	<u>423,317</u>	<u>1</u>	<u>1</u>	<u>395,982</u> <u>[Largest]</u>
22	Vermont	359,611	1	-1	359,611
23	Delaware	238,380	1	0	238,380
24	Wyoming	225,565	1	0	223,630
25	<u>Nevada</u>	<u>91,058</u>	<u>1</u>	<u>0</u>	<u>86,390</u> <u>[Smallest]</u>
26	Alaska		X	X	X

1 Hawaii		X	X	X
2 *****	*****	***	**	*****
3 United States	123,202,624	435	27	280,675

4
5 **1940**

6 74. The sixteenth census counted 132,164,569 resident persons
7 in the United States, as of April 1, 1940.

1940				
STATE	Population	Number of Seats	Change in Seats	Average Population Per District
New York	13,479,142	45	0	299,536
Pennsylvania	9,900,180	33	-1	300,005
Illinois	7,897,241	26	-1	303,740
Ohio	6,907,612	23	-1	300,331
California	6,907,387	23	3	300,321
Texas	6,414,824	21	0	305,468
Michigan	5,256,106	17	0	309,183
Massachusetts	4,316,721	14	-1	308,337
New Jersey	4,160,165	14	0	297,155
Missouri	3,784,664	13	0	291,128
North Carolina	3,571,623	12	1	297,635
Indiana	3,427,796	11	-1	311,618
Wisconsin	3,137,587	10	0	313,759
Georgia	3,123,723	10	0	312,372

1	Tennessee	2,915,841	10	1	291,584
2	Kentucky	2,845,627	9	0	316,181
3	Alabama	2,832,961	9	0	314,773
4	Minnesota	2,792,300	9	0	310,256
5	Virginia	2,677,773	9	0	297,530
6	Iowa	2,538,268	8	-1	317,284
7	Louisiana	2,363,880	8	0	295,485
8	Oklahoma	2,336,434	8	-1	292,054
9	Mississippi	2,183,796	7	0	311,971
10	Arkansas	1,949,387	7	0	278,484
11	West Virginia	1,901,974	6	0	316,996
12	South Carolina	1,899,804	6	0	316,634
13	Florida	1,897,414	6	1	316,236
14	Maryland	1,821,244	6	0	303,541
15	Kansas	1,801,028	6	-1	300,171
16	Washington	1,736,191	6	0	289,365
17	Connecticut	1,709,242	6	0	284,874
18	Nebraska	1,315,834	4	-1	328,959
19	Colorado	1,123,296	4	0	280,824
20	Oregon	1,089,684	4	1	272,421
21	Maine	847,226	3	0	282,409
22	Rhode Island	713,346	2	0	356,673
23	South Dakota	642,961	2	0	321,481
24					
25					
26					
27					
28					

1	North Dakota	641,935	2	0	320,968
2	Montana	559,456	2	0	279,728
3	Utah	550,310	2	0	275,155
4	New Mexico	531,818	2	1	265,909
5	Idaho	524,873	2	0	262,437
6	Arizona	499,261	2	1	249,631
7	New Hampshire	491,524	2	0	245,762
8	Vermont	359,231	1	0	359,231 [Largest]
9	Delaware	266,505	1	0	266,505
10	Wyoming	250,742	1	0	250,742
11	Nevada	110,247	1	0	110,247 [Smallest]
12	Alaska		X	X	X
13	Hawaii		X	X	X
14	*****	*****	***	**	*****
15	United States	132,164,569	435	9	301,164

19 **75.** Congress merely copied the 1929 Act in 1940:

20 [The 1929 Act] to provide for apportionment of
 21 Representatives in Congress ... is hereby amended in the first
 22 sentence of section 22 (a) by striking out the words "second
 23 regular session of the Seventy-First Congress" and
 24 substituting the following words: "first regular session of the
 Seventy-seventh Congress", and by striking out "fifteenth"
 and inserting "sixteenth".

25 54 Stat. 162, Sec. 1 (April 25, 1940). [Att. 17]
 26
 27
 28

1 **1941**
2

3 **76.** Congress made apportionment of 435 members permanent
4 and automatic:

5 Each State shall be entitled, in the Seventy-eighth and in each
6 Congress thereafter until the taking effect of a
7 reapportionment under a subsequent statute[,] ... to the
8 number of Representatives shown in the statement
9 transmitted to the Congress on January 8, 1941, based upon
10 the method known as the method of equal proportions, no
State to receive less than one Member.

11 Permanent Apportionment Act of November 15, 1941, 77th Cong., Sess.
12 I, Ch. 470, Sec. 2(a). [Att. 18]

13 **77.** 2 U.S.C. § 2a(a) now provides:
14

15 On the first day, or within one week thereafter, of the first
16 regular session of the Eighty-second Congress and of each
17 fifth Congress thereafter, the President shall transmit to the
18 Congress a statement showing the whole number of persons
19 in each State ... as ascertained under the seventeenth and
20 each subsequent decennial census of the population, and the
21 number of Representatives to which each State would be
22 entitled under an apportionment of the then existing number
of Representatives [435] by the method known as the method
of equal proportions, no State to receive less than one
Member.

23 [Att. 18]

24 **78.** 2 U.S.C. § 2a(b) now provides:

25 Each State shall be entitled, in the Eighty-third Congress and
26 in each Congress thereafter until the taking effect of a
27 reapportionment under this section or subsequent statute, to

1 the number of Representatives shown in the statement
 2 required by subsection (a) of this section, no State to receive
 3 less than one Member.

4 [Att. 18]

5 **1950**

6 79. The seventeenth census counted 151,325,798 resident
 persons in the United States, as of April 1, 1950.

1950				
STATE	Population	Number of Seats	Change in Seats	Average Population Per District
New York	14,830,192	43	-2	344,888
California	10,586,223	30	7	352,874
Pennsylvania	10,498,012	30	-3	349,934
Illinois	8,712,176	25	-1	348,487
Ohio	7,946,627	23	0	345,506
Texas	7,711,194	22	1	350,509
Michigan	6,371,766	18	1	353,987
New Jersey	4,835,329	14	0	345,381
Massachusetts	4,690,514	14	0	335,037
North Carolina	4,061,929	12	0	338,494
Missouri	3,954,653	11	-2	359,514
Indiana	3,934,224	11	0	357,657
Georgia	3,444,578	10	0	344,458
Wisconsin	3,434,575	10	0	343,458
Virginia	3,318,680	10	1	331,868
Tennessee	3,291,718	9	-1	365,746
Alabama	3,061,743	9	0	340,194
Minnesota	2,982,483	9	0	331,387

1	Kentucky	2,944,806	8	-1	368,101
2	Florida	2,771,305	8	2	346,413
3	Louisiana	2,683,516	8	0	335,440
4	Iowa	2,621,073	8	0	327,634
5	Washington	2,378,963	7	1	339,852
6	Maryland	2,343,001	7	1	334,714
7	Oklahoma	2,233,351	6	-2	372,225
8	Mississippi	2,178,914	6	-1	363,152
9	South Carolina	2,117,027	6	0	352,838
10	Connecticut	2,007,280	6	0	334,547
11	West Virginia	2,005,552	6	0	334,259
12	Arkansas	1,909,511	6	-1	318,252
13	Kansas	1,905,299	6	0	317,550
14	Oregon	1,521,341	4	0	380,335
15	Nebraska	1,325,510	4	0	331,378
16	Colorado	1,325,089	4	0	331,272
17	Maine	913,774	3	0	304,591
18	Rhode Island	<u>791,896</u>	<u>2</u>	<u>0</u>	<u>395,948</u> <u>[Largest]</u>
19	Arizona	749,587	2	0	374,794
20	Utah	688,862	2	0	344,431
21	New Mexico	681,187	2	0	340,594
22	South Dakota	652,740	2	0	326,370
23	North Dakota	619,636	2	0	309,818
24	Montana	591,024	2	0	295,512
25	Idaho	588,637	2	0	294,319
26	New Hampshire	533,242	2	0	266,621
27	Vermont	377,747	1	0	377,747
28	Delaware	318,085	1	0	318,085

1	Wyoming	290,529	1	0	290,529
2	Nevada	<u>160,083</u>	<u>1</u>	<u>0</u>	<u>160,083</u> [Smallest]
3	Alaska		X	X	X
4	Hawaii		X	X	X
5	*****	*****	***	**	*****
6	*				
7	United States	151,325,798	435	14	344,587

1954

9 80. “The Fifth Amendment ... does not contain an equal
10 protection clause as does the Fourteenth Amendment which applies
11 only to the states. But the concepts of equal protection and due process,
12 both stemming from our American ideal of fairness, are not mutually
13 exclusive.” *Bolling v. Sharpe*, 347 U.S. 497, 499-500 (1954).

15 81. *Bolling* concerned segregation in schools in the District of
16 Columbia, to which the Fourteenth Amendment does not apply. *Id.*

17 82. Holding that the Fifth Amendment’s due process clause
18 forbid racial segregation in D.C. schools, the *Bolling* court explained
19 that “it would be unthinkable that the same Constitution would impose
20 a lesser duty on the Federal Government.” *Id.*

22 83. “The ‘equal protection of the laws’ is a more explicit
23 safeguard of prohibited unfairness than ‘due process of law,’ and,
24 therefore, we do not imply that the two are always interchangeable
25 phrases.” *Id.*

1 84. “But, ... discrimination may be so unjustifiable as to be
 2 violative of due process.” *Id.* at 500.
 3

4 **1958 / 1959**

5 85. Representation of Alaska and Hawaii in the House
 6 temporarily added one member per state for a total House of 437,
 7 reverting after the next election to a total House of 435. See section 9
 8 of Public Law 85-508, 72 Stat. 339 (July 7, 1958); and section 8 of Public
 9 Law 86-3, 73 Stat. 4 (Mar. 18, 1959).

10 **1960**

11 86. The eighteenth census counted 179,323,175 resident persons
 12 in the fifty (50) United States, as of April 1, 1960.

1960				
STATE	Population	Number of Seats	Change in Seats	Average Population Per District
New York	16,782,304	41	-2	409,324
California	15,717,204	38	8	413,611
Pennsylvania	11,319,366	27	-3	419,236
Illinois	10,081,158	24	-1	420,048
Ohio	9,706,397	24	1	404,433
Texas	9,579,677	23	1	416,508
Michigan	7,823,194	19	1	411,747

1	New Jersey	6,066,782	15	1	404,452
2	Massachusetts	5,148,578	12	-2	429,048
3	Florida	4,951,560	12	4	412,630
4	Indiana	4,662,498	11	0	423,863
5	North Carolina	4,556,155	11	-1	414,196
6	Missouri	4,319,813	10	-1	431,981
7	Virginia	3,966,949	10	0	396,695
8	Wisconsin	3,951,777	10	0	395,178
9	Georgia	3,943,116	10	0	394,312
10	Tennessee	3,567,089	9	0	396,343
11	Minnesota	3,413,864	8	-1	426,733
12	Alabama	3,266,740	8	-1	408,343
13	Louisiana	3,257,022	8	0	407,128
14	Maryland	3,100,689	8	1	387,586
15	Kentucky	3,038,156	7	-1	434,022
16	Washington	2,853,214	7	0	407,602
17	Iowa	2,757,537	7	-1	393,934
18	Connecticut	2,535,234	6	0	422,539
19	South Carolina	2,382,594	6	0	397,099
20	Oklahoma	2,328,284	6	0	388,047

1	Kansas	2,178,611	5	-1	435,722
2	Mississippi	2,178,141	5	-1	435,628
3	West Virginia	1,860,421	5	-1	372,084
4	Arkansas	1,786,272	4	-2	446,568
5	Oregon	1,768,687	4	0	442,172
6	Colorado	1,753,947	4	0	438,487
7	Nebraska	1,411,330	3	-1	470,443
8	Arizona	1,302,161	3	1	434,054
9	<u>Maine</u>	<u>969,265</u>	<u>2</u>	<u>-1</u>	<u>484,633</u> <u>[Largest]</u>
10	New Mexico	951,023	2	0	475,512
11	Utah	890,627	2	0	445,314
12	Rhode Island	859,488	2	0	429,744
13	South Dakota	680,514	2	0	340,257
14	Montana	674,767	2	0	337,384
15	Idaho	667,191	2	0	333,596
16	Hawaii	632,772	2	2	316,386
17	North Dakota	632,446	2	0	316,223
18	New Hampshire	606,921	2	0	303,461
19	Delaware	446,292	1	0	446,292
20	Vermont	389,881	1	0	389,881

1	Wyoming	330,066	1	0	330,066
2	Nevada	285,278	1	0	285,278
3	Alaska	<u>226,167</u>	<u>1</u>	<u>1</u>	<u>226,167</u> [Smallest]
4	*****	*****	***	**	*****
5	United States	179,323,175	435	21	410,481

1962

87. In *Baker v. Carr*, the Supreme Court recognized standing for
 10 an individual to challenge the constitutionality of legislative district re-
 11 apportionment:

13 Article III, s 2, of the Federal Constitution provides that ‘The
 14 judicial Power shall extend to all Cases, in Law and Equity,
 15 arising under this Constitution, the Laws of the United
 16 States, and Treaties made, or which shall be made, under
 17 their Authority * * *.’ It is clear that the cause of action is one
 18 which ‘arises under’ the Federal Constitution. The complaint
 19 alleges that the [Tennessee] statute effects an apportionment
 that deprives the appellants of the equal protection of the laws
 in violation of the Fourteenth Amendment.

20 *Baker v. Carr*, 369 U.S. 186, 199 (1962) (applying Fourteenth
 21 Amendment to Tennessee apportionment statute).

1964

24 88. The Supreme Court heard argument in *Wesberry v. Sanders*,
 25 *infra*, on November 18 and November 19 of 1963.

26 89. The Twenty-Fourth Amendment took effect on January 23,
 27 1964.

1 The right of citizens of the United States to vote in any
 2 primary or other election for President or Vice President, for
 3 electors for President or Vice President, or for Senator or
 4 Representative in Congress, shall not be denied or abridged
 5 by the United States or any State by reason of failure to pay
 any poll tax or other tax.

6 U.S.CONST., Twenty-Fourth Amend.

7 **90.** Rejecting the contention that apportionment under Article I
 8 is a non-justiciable political question, the *Wesberry* court explained
 9 that “The right to vote is too important in our free society to be stripped
 10 of judicial protection by such an interpretation of Article I.” *Wesberry*
 11 *v. Sanders*, 376 U.S. 1, 7, 84 S.Ct. 526, 11 L.Ed.2d 481 (Argued Nov. 18
 12 and 19, 1963; decided Feb. 17, 1964).

14 We hold that, construed in its historical context, the command
 15 of Art. I, s 2, that Representatives be chosen ‘by the People of
 16 the several States’ means that as nearly as is practicable one
 17 man’s vote in a congressional election is to be worth as much
 18 as another’s. This rule is followed automatically, of course,
 19 when Representatives are chosen as a group on a statewide
 20 basis, as was a widespread practice in the first 50 years of our
 21 Nation’s history. ... The history of the Constitution,
 22 particularly that part of it relating to the adoption of Art. I, s
 23 2, reveals that those who framed the Constitution meant that,
 24 no matter what the mechanics of an election, whether
 25 statewide or by districts, it was population which was to be
 26 the basis of the House of Representatives. [pp. 7-9]

27 ...
 28 The debates at the Convention make at least one fact
 abundantly clear: that when the delegates agreed that the
 House should represent ‘people’ they intended that in
 allocating Congressmen the number assigned to each State
 should be determined solely by the number of the State’s

1 inhabitants. The Constitution embodied Edmund Randolph's
2 proposal for a periodic census to ensure 'fair representation of
3 the people,' an idea endorsed by Mason as assuring that
4 'numbers of inhabitants' should always be the measure of
5 representation in the House of Representatives. The
6 Convention also overwhelmingly agreed to a resolution
7 offered by Randolph to base future apportionment squarely on
8 numbers and to delete any reference to wealth. And the
9 delegates defeated a motion made by Elbridge Gerry to limit
the number of Representatives from newer Western States so
that it would never exceed the number from the original
States.

10 ...
11 The House of Representatives, the Convention agreed, was to
12 represent the people as individuals, and on a basis of complete
equality for each voter. [pp. 13-14]

13 ...
14 It is in the light of such history that we must construe Art. I,
15 s 2, of the Constitution, which, carrying out the ideas of
16 Madison and those of like views, provides that
Representatives shall be chosen 'by the People of the several
17 States' and shall be 'apportioned among the several States * *
* according to their respective Numbers.' It is not surprising
18 that our Court has held that this Article gives persons
qualified to vote a constitutional right to vote and to have
their votes counted. *United States v. Mosley*, 238 U.S. 383, 35
S.Ct. 904, 59 L.Ed. 1355; *Ex parte Yarbrough*, 110 U.S. 651, 4
S.Ct. 152, 28 L.Ed. 274. Not only can this right to vote not be
denied outright, it cannot, consistently with Article I, be
destroyed by alteration of ballots, see *United States v. Classic*,
313 U.S. 299, 61 S.Ct. 1031, 85 L.Ed. 1368, or diluted by
stuffing of the ballot box, see *United States v. Saylor*, 322 U.S.
385, 64 S.Ct. 1101, 88 L.Ed. 1341. No right is more precious
in a free country than that of having a voice in the election of
those who make the laws under which, as good citizens, we
must live. Other rights, even the most basic, are illusory if the
right to vote is undermined. Our Constitution leaves no room
for classification of people in a way that unnecessarily

1 abridges this right. In urging the people to adopt the
2 Constitution, Madison said in No. 57 of The Federalist:

3 Who are to be the electors of the Federal
4 Representatives? Not the rich more than the poor;
5 not the learned more than the ignorant; not the
6 haughty heirs of distinguished names, more than
7 the humble sons of obscure and unpropitious
8 fortune. The electors are to be the great body of the
people of the United States. * * *

9 Readers surely could have fairly taken this to mean, ‘one
10 person, one vote.’ Cf. *Gray v. Sanders*, 372 U.S. 368, 381, 83
S.Ct. 801, 809, 9 L.Ed.2d 821.

11 While it may not be possible to draw congressional districts
12 with mathematical precision, that is no excuse for ignoring
13 our Constitution’s plain objective of making equal
14 representation for equal numbers of people the fundamental
15 goal for the House of Representatives. That is the high
16 standard of justice and common sense which the Founders set
for us. [pp. 17-18]

17 *Wesberry v. Sanders*, 376 U.S. at 7-9; 13-14; 17-18 (citations and marks
18 in original).

19
20 1967

21 91. In 1967, Congress eliminated at-large districts in every state
22 with more than one Representative.

23 In each State entitled in the Ninety-first Congress or in any
24 subsequent Congress thereafter to more than one
25 Representative under an apportionment made pursuant to
26 the provisions of section 2a(a) of this title, there shall be
27 established by law a number of districts equal to the number
28 of Representatives to which such State is so entitled, and
Representatives shall be elected only from districts so

1 established, no district to elect more than one
 2 Representative[.]

3 2 U.S.C. § 2c; Public Law 90–196; 81 Stat. 581 (Dec. 14, 1967).

4 **1970**

5 **92.** The nineteenth census counted 203,302,031 resident persons
 6 in the United States, as of April 1, 1970.

1970				
STATE	Population	Number of Seats	Change in Seats	Average Population Per District
California	19,953,134	43	5	467,415
New York	18,236,967	39	-2	470,207
Pennsylvania	11,793,909	25	-2	475,373
Texas	11,196,730	24	1	470,783
Illinois	11,113,976	24	0	466,013
Ohio	10,652,017	23	-1	466,530
Michigan	8,875,083	19	0	470,379
New Jersey	7,168,164	15	0	480,536
Florida	6,789,443	15	3	457,047
Massachusetts	5,689,170	12	0	477,223
Indiana	5,193,669	11	0	475,287
North Carolina	5,082,059	11	0	465,930
Missouri	4,676,501	10	0	471,803
Virginia	4,648,494	10	0	469,074
Georgia	4,589,575	10	0	462,731
Wisconsin	4,417,731	9	-1	494,113
Tennessee	3,923,687	8	-1	495,133
Maryland	3,922,399	8	0	494,212

1	Minnesota	3,804,971	8	0	479,147
2	Louisiana	3,641,306	8	0	459,001
3	Alabama	3,444,165	7	-1	496,555
4	Washington	3,409,169	7	0	491,927
5	Kentucky	3,218,706	7	0	463,783
6	Connecticut	3,031,709	6	0	508,449
7	Iowa	2,824,376	6	-1	474,487
8	South Carolina	2,590,516	6	0	436,220
9	Oklahoma	2,559,229	6	0	430,914
10	Kansas	2,246,578	5	0	453,169
11	Mississippi	2,216,912	5	0	446,770
12	Colorado	2,207,259	5	1	445,354
13	Oregon	2,091,385	4	0	527,703
14	Arkansas	1,923,295	4	0	485,576
15	Arizona	1,770,900	4	1	446,905
16	West Virginia	1,744,237	4	-1	440,833
17	Nebraska	1,483,493	3	0	498,940
18	Utah	1,059,273	2	0	533,905
19	New Mexico	1,016,000	2	0	513,332
20	Maine	992,048	2	0	503,160
21	Rhode Island	946,725	2	0	478,899
22	Hawaii	768,561	2	0	392,451
23	New Hampshire	737,681	2	0	373,142
24	Idaho	712,567	2	0	359,961
25	Montana	694,409	2	0	350,787
26	South Dakota	665,507	2	0	336,624
27	North Dakota	<u>617,761</u>	<u>1</u>	<u>-1</u>	<u>624,181</u> <u>[Largest]</u>
28	Delaware	548,104	1	0	551,928

1	Nevada	488,738	1	0	492,396
2	Vermont	444,330	1	0	448,327
3	Wyoming	332,416	1	0	335,719
4	<u>Alaska</u>	<u>300,382</u>	<u>1</u>	<u>0</u>	<u>304,067</u> <u>[Smallest]</u>
5	*****	*****	***	**	*****
6	United States	203,302,031	435	11	469,088

1971

93. “The right of citizens of the United States, who are eighteen
 10 years of age or older, to vote shall not be denied or abridged by the
 11 United States or by any State on account of age.” U.S.CONST., Twenty-
 12 Sixth Amend.

1976

94. A plaintiff sued a New York state official, arguing that Art.
 15 I, § 2, cl. 3 *required* one Representative for every 30,000 people, which
 16 the district court rejected. *Whelan v. Cuomo*, 415 F.Supp. 251, 258
 17 (E.D.N.Y. 1976).

1980

95. The twentieth census counted 226,542,199 resident persons
 21 in the United States, as of April 1, 1980.

1980				
STATE	Population	Number of Seats	Change in Seats	Average Population Per District
California	23,667,902	45	2	525,968
New York	17,558,072	34	-5	516,391

1	Texas	14,229,191	27	3	526,977
2	Pennsylvania	11,863,895	23	-2	515,945
3	Illinois	11,426,518	22	-2	519,021
4	Ohio	10,797,630	21	-2	514,163
5	Florida	9,746,324	19	4	512,631
6	Michigan	9,262,078	18	-1	514,352
7	New Jersey	7,364,823	14	-1	526,011
8	North Carolina	5,881,766	11	0	534,039
9	Massachusetts	5,737,037	11	-1	521,549
10	Indiana	5,490,224	10	-1	549,018
11	Georgia	5,463,105	10	0	546,427
12	Virginia	5,346,818	10	0	534,628
13	Missouri	4,916,686	9	-1	546,383
14	Wisconsin	4,705,767	9	0	522,815
15	Tennessee	4,591,120	9	1	510,083
16	Maryland	4,216,975	8	0	527,056
17	Louisiana	4,205,900	8	0	525,497
18	Washington	4,132,156	8	1	516,270
19	Minnesota	4,075,970	8	0	509,644
20	Alabama	3,893,888	7	0	555,723
21	Kentucky	3,660,777	7	0	523,062
22	South Carolina	3,121,820	6	0	519,868
23	Connecticut	3,107,576	6	0	517,929
24	Oklahoma	3,025,290	6	0	504,211
25	Iowa	2,913,808	6	0	485,565
26	Colorado	2,889,964	6	1	481,472
27	Arizona	2,718,215	5	1	543,573

1	Oregon	2,633,105	5	1	526,533
2	Mississippi	2,520,638	5	0	504,128
3	Kansas	2,363,679	5	0	472,642
4	Arkansas	2,286,435	4	0	571,378
5	West Virginia	1,949,644	4	0	487,411
6	Nebraska	1,569,825	3	0	523,335
7	Utah	1,461,037	3	1	487,012
8	New Mexico	1,302,894	3	1	433,323
9	Maine	1,124,660	2	0	562,330
10	Hawaii	964,691	2	0	482,500
11	Rhode Island	947,154	2	0	473,577
12	Idaho	943,935	2	0	471,968
13	New Hampshire	920,610	2	0	460,305
14	Nevada	800,493	2	1	399,592
15	<u>Montana</u>	<u>786,690</u>	<u>2</u>	<u>0</u>	<u>393,345</u> <u>[Smallest]</u>
16	<u>South Dakota</u>	<u>690,768</u>	<u>1</u>	<u>-1</u>	<u>690,178</u> <u>[Largest]</u>
17	North Dakota	652,717	1	0	652,695
18	Delaware	594,338	1	0	595,225
19	Vermont	511,456	1	0	511,456
20	Wyoming	469,557	1	0	470,816
21	Alaska	401,851	1	0	400,481
22	*****	*****	***	**	*****
23	United States	226,542,199	435	17	519,235
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1981

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96. Congress created the Court of Appeals for the Eleventh Circuit by subdividing the then-existing Fifth Circuit but did not increase the size of the Supreme Court.

97. “The [Due Process Clause of the Fifth Amendment] requires that Congress treat similarly situated persons similarly, not that it engage in gestures of superficial equality.” *Rostker v. Goldberg*, 453 U.S. 57, 79 (1981) (regarding Military Selective Service Act).

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98. Congress created the Court of Appeals for the Federal Circuit by merging the Court of Customs and Patent Appeals with the appellate division of the Court of Claims, but did not increase the size of the Supreme Court, which remains at 9 members.

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99. The twenty-first census counted 248,709,873 resident persons in the United States, as of April 1, 1990.

1990				
STATE	Population	Number of Seats	Change in Seats	Average Population Per District
California	29,760,021	52	7	573,832
New York	17,990,455	31	-3	582,081
Texas	16,986,510	30	3	568,660
Florida	12,937,926	23	4	565,364

1	Pennsylvania	11,881,643	21	-2	567,843
2	Illinois	11,430,602	20	-2	573,334
3	Ohio	10,847,115	19	-2	573,017
4	Michigan	9,295,297	16	-2	583,049
5	New Jersey	7,730,188	13	-1	596,049
6	North Carolina	6,628,637	12	1	554,803
7	Georgia	6,478,216	11	1	591,674
8	Virginia	6,187,358	11	1	565,143
9	Massachusetts	6,016,425	10	-1	602,905
10	Indiana	5,544,159	10	0	556,423
11	Missouri	5,117,073	9	0	570,867
12	Wisconsin	4,891,769	9	0	545,194
13	Tennessee	4,877,185	9	0	544,071
14	Washington	4,866,692	9	1	543,105
15	Maryland	4,781,468	8	0	599,828
16	Minnesota	4,375,099	8	0	548,379
17	Louisiana	4,219,973	7	-1	605,459
18	Alabama	4,040,587	7	0	580,373
19	Kentucky	3,685,296	6	-1	616,495
20	Arizona	3,665,228	6	1	612,998
21	South Carolina	3,486,703	6	0	584,285
22	Colorado	3,294,394	6	0	551,319
23	Connecticut	3,287,116	6	0	549,278
24	Oklahoma	3,145,585	6	0	526,267
25	Oregon	2,842,321	5	0	570,747
26	Iowa	2,776,755	5	-1	557,485
27	Mississippi	2,573,216	5	0	517,289

1	Kansas	2,477,574	4	-1	621,400
2	Arkansas	2,350,725	4	0	590,560
3	West Virginia	1,793,477	3	-1	600,542
4	Utah	1,722,850	3	0	575,928
5	Nebraska	1,578,385	3	0	528,206
6	New Mexico	1,515,069	3	0	507,260
7	Maine	1,227,928	2	0	616,612
8	Nevada	1,201,833	2	0	603,076
9	New Hampshire	1,109,252	2	0	556,958
10	Hawaii	1,108,229	2	0	557,637
11	Idaho	1,006,749	2	0	505,993
12	Rhode Island	1,003,464	2	0	502,992
13	<u>Montana</u>	<u>799,065</u>	<u>1</u>	<u>-1</u>	<u>803,655</u>
14					[Largest]
15	South Dakota	696,004	1	0	699,999
16	Delaware	666,168	1	0	668,696
17	North Dakota	638,800	1	0	641,364
18	Vermont	562,758	1	0	564,964
19	Alaska	550,043	1	0	551,947
20	<u>Wyoming</u>	<u>453,588</u>	<u>1</u>	<u>0</u>	<u>455,975</u>
21	*****	*****	***	**	*****
22	United States	248,709,873	435	19	572,466

1992

100. The Supreme Court held that the “method of equal proportions” was satisfied in light of “the need to allocate a fixed number of indivisible Representatives among 50 States of varying

1 populations makes it virtually impossible to have the same district size
2 in any pair of States, let alone 50.” *U.S. Dept. of Commerce v. Montana*,
3 503 U.S. 442, 463 (1992).

4 **101.** Mathematically, the *Montana* court was incorrect.

5 **102.** Equal apportionment is only “virtually impossible” if the
6 number of representatives is permanently set to 435, with no state
7 having fewer than one representative.

8 **103.** The *Montana* court did not analyze whether capping the
9 number of representatives at 435 itself could violate citizens’ rights to
10 equal representation in the House [Art. I, § 2] and in the electoral
11 college [Art. II, § 1], or the ‘one person, one vote’ principle, particularly
12 in light of a growing population. See 503 U.S. at 451 and n. 24.

13 **1995**

14 **104.** As the Answer was always “435”, Congress determined the 2
15 U.S.C. § 2a(a) decennial report regarding the results of the Census and
16 apportionment of seats in the House of Representatives was ‘wasteful,’
17 and terminated the provision requiring submittal to Congress, effective
18 May 15, 2000. 31 U.S.C. § 1113. See Public Law 104–66, § 3003
19 (December 21, 1995); 1090 Stat. 707, Sec. 3003.

20 **1996**

21 **105.** Section 201 of Public Law 104-186 struck the phrase “and in
22 case of vacancies in the offices of both the Clerk and the Sergeant at
23 Arms, or the absence or inability of both to act, such duty shall devolve

1 upon the Doorkeeper of the House of Representatives" from 2 U.S.C. §
 2 2a(b). Public Law 104-186, Title II, § 201 (August 20, 1996)
 3

4 **2000**

5 **106.** The twenty-second census counted 281,421,906 resident
 6 persons in the United States, as of April 1, 2000.

2000				
STATE	Population	Number of Seats	Change in Seats	Average Population Per District
California	33,871,648	53	1	640,204
Texas	20,851,820	32	2	653,250
New York	18,976,457	29	-2	655,344
Florida	15,982,378	25	2	641,156
Illinois	12,419,293	19	-1	654,686
Pennsylvania	12,281,054	19	-2	647,404
Ohio	11,353,140	18	-1	631,919
Michigan	9,938,444	15	-1	663,722
New Jersey	8,414,350	13	0	648,027
Georgia	8,186,453	13	2	631,306
North Carolina	8,049,313	13	1	620,590
Virginia	7,078,515	11	0	645,518
Massachusetts	6,349,097	10	0	635,557
Indiana	6,080,485	9	-1	676,754
Washington	5,894,121	9	0	656,520
Tennessee	5,689,283	9	0	633,337
Missouri	5,595,211	9	0	622,918

1	Wisconsin	5,363,675	8	-1	671,401
2	Maryland	5,296,486	8	0	663,486
3	Arizona	5,130,632	8	2	642,585
4	Minnesota	4,919,479	8	0	615,709
5	Louisiana	4,468,976	7	0	640,039
6	Alabama	4,447,100	7	0	637,304
7	Colorado	4,301,261	7	1	615,983
8	Kentucky	4,041,769	6	0	674,905
9	South Carolina	4,012,012	6	0	670,844
10	Oklahoma	3,450,654	5	-1	691,764
11	Oregon	3,421,399	5	0	685,709
12	Connecticut	3,405,565	5	-1	681,907
13	Iowa	2,926,324	5	0	586,385
14	Mississippi	2,844,658	4	-1	713,232
15	Kansas	2,688,418	4	0	673,456
16	Arkansas	2,673,400	4	0	669,933
17	Utah	2,233,169	3	0	745,571
18	Nevada	1,998,257	3	1	667,344
19	New Mexico	1,819,046	3	0	607,940
20	West Virginia	1,808,344	3	0	604,359
21	Nebraska	1,711,263	3	0	571,790
22	Idaho	1,293,953	2	0	648,637
23	Maine	1,274,923	2	0	638,866
24	New Hampshire	1,235,786	2	0	619,208
25	Hawaii	1,211,537	2	0	608,321
26	Rhode Island	1,048,319	2	0	524,831
27	-				

<u>Montana</u>	<u>902,195</u>	<u>1</u>	<u>0</u>	<u>905,316</u> <u>[Largest]</u>
Delaware	783,600	1	0	785,068
South Dakota	754,844	1	0	756,874
North Dakota	642,200	1	0	643,756
Alaska	626,932	1	0	628,933
Vermont	608,827	1	0	609,890
Wyoming	<u>493,782</u>	<u>1</u>	<u>0</u>	<u>495,304</u> <u>[Smallest]</u>
*****	*****	***	**	*****
United States	281,421,906	435	12	646,952

107. On December 12, 2000, the Supreme Court issued an injunction regarding the presidential election, predicated upon Fifth Amendment due process grounds. *Bush v. Gore*, 531 U.S. 98 (2000).

108. George W. Bush had 271 electors to Al Gore's 267, though Bush lost the national popular vote by 537,179.

2010

109. The twenty-third census counted 308,745,538 resident persons in the United States, as of April 1, 2010.

2010				
STATE	Population	Number of Seats	Change in Seats	Average Population Per District
California	37,253,956	53	0	704,566
Texas	25,145,561	36	4	701,901
New York	19,378,102	27	-2	719,298

1	Florida	18,801,310	27	2	700,029
2	Illinois	12,830,632	18	-1	714,688
3	Pennsylvania	12,702,379	18	-1	707,495
4	Ohio	11,536,504	16	-2	723,031
5	Michigan	9,883,640	14	-1	707,973
6	Georgia	9,687,653	14	1	694,826
7	North Carolina	9,535,483	13	0	735,829
8	New Jersey	8,791,894	12	-1	733,958
9	Virginia	8,001,024	11	0	730,703
10	Washington	6,724,540	10	1	675,337
11	Massachusetts	6,547,629	9	-1	728,849
12	Indiana	6,483,802	9	0	722,398
13	Arizona	6,392,017	9	1	712,522
14	Tennessee	6,346,105	9	0	708,381
15	Missouri	5,988,927	8	-1	751,435
16	Maryland	5,773,552	8	0	723,741
17	Wisconsin	5,686,986	8	0	712,279
18	Minnesota	5,303,925	8	0	664,360
19	Colorado	5,029,196	7	0	720,704
20	Alabama	4,779,736	7	0	686,140
21	South Carolina	4,625,364	7	1	663,711
22	Louisiana	4,533,372	6	-1	758,994
23	Kentucky	4,339,367	6	0	725,101
24	Oregon	3,831,074	5	0	769,721
25	Oklahoma	3,751,351	5	0	752,976

1	Connecticut	3,574,097	5	0	716,326
2	Iowa	3,046,355	4	-1	763,447
3	Mississippi	2,967,297	4	0	744,560
4	Arkansas	2,915,918	4	0	731,557
5	Kansas	2,853,118	4	0	715,953
6	Utah	2,763,885	4	1	692,691
7	Nevada	2,700,551	4	1	677,358
8	New Mexico	2,059,179	3	0	689,091
9	West Virginia	1,852,994	3	0	619,938
10	Nebraska	1,826,341	3	0	610,608
11	Idaho	1,567,582	2	0	786,750
12	Hawaii	1,360,301	2	0	683,431
13	Maine	1,328,361	2	0	666,537
14	New Hampshire	1,316,470	2	0	660,723
15	<u>Rhode Island</u>	<u>1,052,567</u>	<u>2</u>	<u>0</u>	<u>527,624</u> <u>[Smallest]</u>
16	<u>Montana</u>	<u>989,415</u>	<u>1</u>	<u>0</u>	<u>994,416</u> <u>[Largest]</u>
17	Delaware	897,934	1	0	900,877
18	South Dakota	814,180	1	0	819,761
19	Alaska	710,231	1	0	721,523
20	North Dakota	672,591	1	0	675,905
21	Vermont	625,741	1	0	630,337
22	Wyoming	563,626	1	0	568,300
23	*****	*****	***	**	*****
24	United States	308,745,538	435	12	710,767

1 **110.** One district court held the 435-member cap to be valid,
 2 without considering the Art. II issue. *Clemons v. U.S. Dep't of*
 3 *Commerce*, 710 F. Supp.2d 570, 590 (N.D. Miss. 2010). However, the
 4 Supreme Court ordered that *Clemons* be remanded “with instructions
 5 to dismiss the complaint for lack of jurisdiction.” 562 U.S. 1105, 131
 6 S.Ct. 821 (Mem.) (2010). But, see *infra*, *Rucho v. Common Cause*, 139
 7 S.Ct. 2484, 2496 (2019).

8 **2013**

9 **111.** “[B]asic due process and equal protection principles [are]
 10 applicable to the Federal Government.” *U.S. v. Windsor*, 570 U.S. 744,
 11 769-70 (2013) (regarding Defense Of Marriage Act) (citing U.S.CONST.,
 12 Fifth Amend.; and *Bolling v. Sharpe*, 347 U.S. 497 (1954)).

13 The liberty protected by the Fifth Amendment's Due Process
 14 Clause contains within it the prohibition against denying to
 15 any person the equal protection of the laws. While the Fifth
 16 Amendment itself withdraws from Government the power to
 17 degrade or demean in the way this law does, the equal
 18 protection guarantee of the Fourteenth Amendment makes
 19 that Fifth Amendment right all the more specific and all the
 20 better understood and preserved.

21 *Windsor*, 570 U.S. at 774 (citing *Bolling*, 347 U.S., at 499–500; and
 22 *Adarand Constructors, Inc. v. Penā*, 515 U.S. 200, 217–218 (1995)).

23 **112.** As an alternative to an analysis under *Windsor*, “...the
 24 Citizenship Clause [of the Fourteenth Amendment] guarantees citizens
 25 equal treatment by the Federal Government with respect to civil
 26

1 rights.” *U.S. v. Vaeollo Madero*, 142 S.Ct. 1539, 1551 (2022) (Thomas, J.,
 2 Concurring).

3
 4 **2016**

5 113. In the 2016 presidential election, Donald Trump obtained
 6 304 electoral votes to Hillary Clinton’s 227, despite losing the popular
 7 vote by 2,868,686 votes.

8
 9 **2019**

10 114. Abrogating *Clemons v. U.S. Dep’t of Commerce*, *supra*, the
 11 Supreme Court explained:

12 In the leading case of *Baker v. Carr*, voters in Tennessee
 13 complained that the State’s districting plan for state
 14 representatives “debase[d]” their votes, because the plan was
 15 predicated on a 60-year-old census that no longer reflected the
 16 distribution of population in the State. The plaintiffs argued
 17 that votes of people in overpopulated districts held less value
 18 than those of people in less-populated districts, and that this
 19 inequality violated the Equal Protection Clause of the
 20 Fourteenth Amendment. The District Court dismissed the
 21 action on the ground that the claim was not justiciable,
 22 relying on this Court’s precedents, including *Colegrove. Baker*
v. Carr, 179 F. Supp. 824, 825, 826 (MD Tenn. 1959). This
 23 Court reversed. It identified various considerations relevant
 24 to determining whether a claim is a nonjusticiable political
 25 question, including whether there is “a lack of judicially
 26 discoverable and manageable standards for resolving it.” 369
 27 U.S. at 217, 82 S.Ct. 691. The Court concluded that the claim
 28 of population inequality among districts did not fall into that
 category, because such a claim could be decided under basic
 equal protection principles. *Id.*, at 226, 82 S.Ct. 691. In
Wesberry v. Sanders, the Court extended its ruling to
 malapportionment of congressional districts, holding that
 Article I, § 2, required that “one man’s vote in a congressional

1 election is to be worth as much as another's." 376 U.S. at 8, 84
 2 S.Ct. 526.

3 *Rucho v. Common Cause*, 139 S.Ct. 2484, 2496 (2019).

4 **2020**

5 115. The twenty-fourth census counted 331,449,281 resident
 6 persons in the United States, as of April 1, 2020.

2020				
STATE	Population	Number of Seats	Change in Seats	Average Population Per District
California	39,538,223	52	-1	761,091
Texas	29,145,505	38	2	767,981
Florida	21,538,187	28	1	770,376
New York	20,201,249	26	-1	777,529
Pennsylvania	13,002,700	17	-1	765,403
Illinois	12,812,508	17	-1	754,279
Ohio	11,799,448	15	-1	787,257
Georgia	10,711,908	14	0	766,091
North Carolina	10,439,388	14	1	746,711
Michigan	10,077,331	13	-1	775,726
New Jersey	9,288,994	12	0	774,541
Virginia	8,631,393	11	0	786,777
Washington	7,705,281	10	0	771,595
Arizona	7,151,502	9	0	795,436
Massachusetts	7,029,917	9	0	781,497
Tennessee	6,910,840	9	0	768,544
Indiana	6,785,528	9	0	754,476

1	Maryland	6,177,224	8	0	773,160
2	Missouri	6,154,913	8	0	770,035
3	Wisconsin	5,893,718	8	0	737,184
4	Colorado	5,773,714	8	1	722,771
5	Minnesota	5,706,494	8	0	713,719
6	South Carolina	5,118,425	7	0	732,102
7	Alabama	5,024,279	7	0	718,579
8	Louisiana	4,657,757	6	0	776,911
9	Kentucky	4,505,836	6	0	751,557
10	Oregon	4,237,256	6	1	706,917
11	Oklahoma	3,959,353	5	0	792,703
12	Connecticut	3,608,298	5	0	721,660
13	Utah	3,271,616	4	0	818,813
14	Iowa	3,190,369	4	0	798,102
15	Nevada	3,104,614	4	0	777,116
16	Arkansas	3,011,524	4	0	753,439
17	Mississippi	2,961,279	4	0	740,979
18	Kansas	2,937,880	4	0	735,216
19	New Mexico	2,117,522	3	0	706,740
20	Nebraska	1,961,504	3	0	654,444
21	Idaho	1,839,106	2	0	920,689
22	West Virginia	1,793,716	2	-1	897,523
23	Hawaii	1,455,271	2	0	730,069
24	New Hampshire	1,377,529	2	0	689,545
25	Maine	1,362,359	2	0	681,791
26	Rhode Island	1,097,379	2	0	549,082
27					

1	<u>Montana</u>	<u>1,084,225</u>	<u>2</u>	<u>1</u>	<u>542,704</u> <u>[Smallest]</u>
2	<u>Delaware</u>	<u>989,948</u>	<u>1</u>	<u>0</u>	<u>990,837</u> <u>[Largest]</u>
3	South Dakota	886,667	1	0	887,770
4	North Dakota	779,094	1	0	779,702
5	Alaska	733,391	1	0	736,081
6	Vermont	643,077	1	0	643,503
7	Wyoming	576,851	1	0	577,719
8	*****	*****	***	**	*****
9	United States	331,449,281	435	7	761,169

2022 – The Growing Democracy Deficit

Federal Courts

116. Despite Congress having created 12 territorial Courts of Appeals and the Federal Circuit Court of Appeals, hundreds of district courts, numerous Article I and II courts and tribunals, and otherwise dramatically expanded the federal judiciary over the past century, it has left the number of Supreme Court Justices at 9 since 1869.

U.S. Senate

1910 Population Distribution

117. The U.S. population in 1910 was 92,228,496 persons.

118. In 1910, New York was the largest state, with over 9 million residents. The second largest state had over 7 million residents, the third largest had over 5 million residents, and the fourth largest had

1 over 4 million residents. Three (3) states in 1910 had 3 million
2 residents.
3

4 **119.** So, the approximately 34 million people residing in the seven
5 (7) largest states in 1910 were represented by two (2) senators per state
6 [14 total].
7

8 **120.** Thirteen (13) states had 2 million residents in 1910. Eleven
9 (11) states had one million residents or more; seven (7) states had
10 greater than 500,000 residents; and eight (8) states had fewer than
11 500,000 residents.
12

13 **121.** Thus, 39 of the states in 1910 had fewer than 3 million
residents, with each state being represented by two (2) senators.
14

2020 Population Distribution

15 **122.** The U.S. population in 2020 was 331,449,281 persons.
16

17 **123.** In 2020, the seven (7) largest states had, respectively,
18 populations of 40 million (CA), 30 million (TX), 22 million (FL), 20
19 million (NY), 13 million (PA), 12 million (IL), and 11 million (OH); with
20 two (2) senators representing each state.
21

22 **124.** So, approximately 148 million residents are represented by a
total of 14 senators
23

24 **125.** Three (3) states in 2020 had populations exceeding 10
million; one (1) state had 9 million; and the next state had 8 million;
25 with two (2) senators representing each state.
26
27

1 **126.** Thus, the next 47 million residents are represented by a total
2 of ten (10) senators.
3

4 **127.** As of 2020, three (3) states' populations exceeded 7 million;
5 four (4) states' populations exceeded 6 million; and five (5) states'
6 populations exceeded 5 million; with two (2) senators representing each
7 state.
8

9 **128.** So, these 70 million residents are represented by a total of 24
10 senators.
11

12 **129.** Three (3) states' populations exceeded 4 million; six (6)
13 states' populations exceeded 3 million; and three (3) states exceeded 2
million; with two (2) senators representing each state.
14

15 **130.** So, these 36 million residents are represented by a total of 24
16 senators.
17

18 **131.** Finally, eight (8) states had populations greater than 1
19 million residents, and six (6) states had populations below 1 million
residents; with two (2) senators representing each state.
20

21 **132.** So, these 16 million residents are represented by a total of 28
22 senators.
23

24 **133.** "Remember ... Maine". Congress can subdivide states at any
time with the assent of any given state's legislature. U.S.CONST., Art.
25 IV, § 3.
26

27 **134.** As the 576,851 residents of Wyoming have two (2) senators,
28 this provides a minimum size ('constitutional unit') for future state
COMPLAINT - 56

creation via subdivision of existing states. Any polity, within any one state, having a population equal to or exceeding that of Wyoming should be entitled to equal footing as Wyoming, in terms of representation in the Senate, and subdivision into its own state.

House of Representatives

135. In 1912, when there were 435 congressional districts, the average congressional district had 210,328 residents.

136. The largest district had 228,027 residents; and the smallest had 80,293.

137. Re-apportionment after the 2020 census was once again constrained by the 435-member cap in place for the past 110 years.

138. The average congressional district had 761,169 residents in 2020.

139. The largest district after 2020 has 990,837 residents (DE), and the smallest has 524,704 (MT).

CAUSE OF ACTION

Declaratory Relief – 435 Member Cap Unconstitutional

140. Plaintiff re-incorporates the preceding paragraphs as if fully set forth herein.

141. Claims pursuant to Art. I, § 2 are justiciable, as the Constitution “require[s] that ‘one man’s vote in a congressional election is to be worth as much as another’s.’” *Rucho v. Common Cause*, 139 S.Ct. at 2496 (quoting *Wesberry v. Sanders*, 376 U.S. at 7)).

1 In a case of actual controversy within its jurisdiction, ... any
2 court of the United States, upon the filing of an appropriate
3 pleading, may declare the rights and other legal relations of
4 any interested party seeking such declaration, whether or not
5 further relief is or could be sought. Any such declaration shall
6 have the force and effect of a final judgment or decree and
7 shall be reviewable as such.

8 28 U.S.C. § 2201(a).

9 **142.** 2 U.S.C. § 2a(a), which permanently limits the House of
10 Representatives to 435 members, deprives citizens and residents of
11 their constitutional right to equal representation in the House of
12 Representatives [U.S.CONST., Art. I, § 2].

13 **143.** Furthermore, 2 U.S.C. § 2a(a), which permanently limits the
14 House of Representatives to 435 members, deprives citizens and
15 residents of their constitutional right to equal representation in the
16 electoral college for the presidency [U.S.CONST., Art. II, § 1]

17 **144.** Congress' failure to increase or otherwise change the number
18 of Representatives commensurate with the total population of the
19 United States and the relative populations of the several States, and
20 instead leaving the number [435] unchanged since 1912, and self-
21 executing since 1941, violates the 'one person, one vote' principle.

22 **145.** Particularly when read together with the Art. II, § 1
23 requirements of the 'electoral college,' as well as the other above-quoted
24 sections of the Constitution pertaining to voting, the 'one person, one
25

1 vote' principle must apply to relative district size among the states, as
2 well as within each state.
3

4 **PRAYERS FOR RELIEF**

5 WHEREFORE, Plaintiff prays for the following relief:

6 **146.** That the Court hold that the 435-Member-cap established in
7 U.S.C. § 2a(a) is unconstitutional in light of Art. I, § 2; Art. II, § 1; and
8 the 'one person, one vote' principle. Read together the clauses require
9 roughly equal district sizes among the States, as well as within each
10 State, to give full effect to both Art. I, § 2 and Art. II, § 1.

12 **147.** That Congress be directed to either create a ratio of member-
13 per-unit-of-population applicable equally to each and every of the
14 several States; or a sufficient overall whole number of districts to be
15 apportioned to provide roughly equal district sizes among the States,
16 as well as within each State, so as to give full effect to both Art. I, § 2,
17 and Art. II, § 1.

19 **148.** For any such other and further relief as the Court may deem
20 to be just and equitable.

21 Submitted this 18th day of July, 2022,
22

23 **KSB LITIGATION, P.S.**

25 By: s/ William C. Schroeder

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2 *Plaintiff*
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